

1 H.53

2 Introduced by Representative Branagan of Georgia

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; potable water supplies and
6 wastewater systems; isolation distances

7 Statement of purpose of bill as introduced: This bill proposes to require an
8 isolation distance for a potable water supply and wastewater system to be
9 located on the property on which the supply or system is located; be authorized
10 to extend onto property owned by a person other than the permit applicant; or
11 be waived by the permit applicant if certain criteria are satisfied.

12 An act relating to isolation distances for potable water supplies and
13 wastewater systems

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 10 V.S.A. § 1972 is amended to read:

16 § 1972. DEFINITIONS

17 ~~For the purposes of~~ As used in this chapter:

18 (1) “Agency” means the ~~agency of natural resources~~ Agency of Natural
19 Resources.

1 information has been posted on the ~~agency of natural resources'~~ Agency of
2 Natural Resources' website.

3 (B) Notwithstanding the provisions of this subdivision, a potable
4 water supply shall not be a failed supply if:

5 (i) these effects can be and are remedied solely by minor repairs,
6 including the repair of a broken pipe leading from a building or structure to a
7 well, the replacement of a broken pump, repair or replacement of a mechanical
8 component, or deepening or hydrofracturing a well; or

9 (ii) these effects have lasted for only a brief period of time, the
10 cause of the failure has been determined to be an unusual and nonrecurring
11 event, and the supply has recovered from the state of failure. Supplies ~~which~~
12 that have recurring, continuing, or seasonal failures shall be considered to be
13 failed supplies.

14 (C) If a project is served by multiple potable water supplies, the
15 failure of one supply will not require the issuance of a permit or permit
16 amendment for any other supply that is not in a state of failure.

17 (5)(A) "Failed system" means a wastewater system that is functioning in
18 a manner:

19 (i) that allows wastewater to be exposed to the open air, pool on
20 the surface of the ground, discharge directly to surface water, or back up into a

1 building or structure, unless, in any of these instances, the approved design of
2 the system specifically requires the system to function in such a manner; or

3 (ii) that results in a potable water supply being affirmatively
4 determined by the ~~secretary~~ Secretary to be a failed supply, and that
5 information has been posted on the ~~agency of natural resources~~² Agency of
6 Natural Resources' website.

7 (B) Notwithstanding the provisions of subdivision (A) of this
8 subdivision (5), a system shall not be a failed system if:

9 (i) these effects can be and are remedied solely by minor repairs,
10 including the repair of a broken pipe leading from a building or structure to the
11 septic tank, replacement of a cracked or broken septic tank, or replacement of a
12 broken pump or associated valves, switches, and controls; or

13 (ii) these effects have lasted for only a brief period of time, the
14 cause of the failure has been determined to be an unusual and nonrecurring
15 event, and the system has recovered from the state of failure. Systems which
16 have recurring, continuing, or seasonal failures shall be considered to be
17 failed systems.

18 (C) If a project is served by multiple wastewater systems, the failure
19 of one system will not require the issuance of a permit or permit amendment
20 for any other system that is not in a state of failure.

1 (10) “Wastewater system” means any piping, pumping, treatment, or
2 disposal system used for the conveyance and treatment of sanitary waste or
3 used water, including, ~~but not limited to,~~ carriage water, shower and wash
4 water, and process wastewater. This definition does not include any internal
5 piping or plumbing, except for mechanical systems, such as pump stations and
6 storage tanks or toilets, that are located inside a building or structure and that
7 are integral to the operation of a wastewater system. This definition also does
8 not include wastewater systems that are used exclusively for the treatment and
9 disposal of animal manure. In this chapter, “wastewater system” refers to a
10 soil-based disposal system of less than 6,500 gallons per day, or a sewerage
11 connection of any size.

12 (11) “Single family residence” means a building or a structure that
13 contains only one living unit.

14 Sec. 2. 10 V.S.A. § 1973 is amended to read:

15 § 1973. PERMITS

16 (a) Except as provided in this section and sections 1974 and 1978 of this
17 title, a person shall obtain a permit from the Secretary before:

18 (1) subdividing land;

19 (2) creating or modifying a campground in a manner that affects a
20 potable water supply or wastewater system or the requirements for providing
21 potable water and wastewater disposal;

1 ~~(2) If, during the course of the Secretary's review of an application for a~~
2 ~~permit under this section, the location of a water supply or wastewater system~~
3 ~~permit is revised and the isolation distances of the revised system extend onto~~
4 ~~property other than the property for which the permit is sought, the permit~~
5 ~~applicant shall send by certified mail a copy of any revised plan to any~~
6 ~~landowner affected by the isolation distances.~~

7 ~~(3) If, after a permit has been issued under this section, a water supply~~
8 ~~or wastewater system is not installed according to the permitted plan and the~~
9 ~~record drawings submitted under subsection (c) of this section indicate that the~~
10 ~~isolation distances of the system as constructed extend onto property other than~~
11 ~~the property on which the system is located, the permittee shall send by~~
12 ~~certified mail a notification form provided by the Secretary with a copy of the~~
13 ~~record drawings showing all isolation distances to any landowner affected by~~
14 ~~the isolation distances.~~

15 ~~(4) A permit applicant or permittee subject to the requirements of~~
16 ~~subdivisions (1) through (3) of this subsection shall certify to the Secretary that~~
17 ~~the notices and information required by this subsection have been sent to~~
18 ~~affected landowners and shall include in the certification the name and address~~
19 ~~of all affected landowners. If the Secretary approves a permit application~~
20 ~~under this section, the permit shall not be issued to a permit applicant subject~~
21 ~~to the requirements of subdivision (2) of this subsection until seven calendar~~

1 days after the permit applicant certifies to the Secretary that the notice required
2 under this subsection has been sent to affected landowners Beginning on
3 July 1, 2015, an applicant for a potable water supply or a wastewater system
4 permit under this chapter shall:

5 (1) demonstrate that the required isolation distance for the potable water
6 supply and wastewater system is located on the property on which the potable
7 water supply or wastewater system is located;

8 (2) submit written authorization from the owner of any property on
9 which the isolation distance will encroach; or

10 (3) submit a waiver of isolation distance form that complies with the
11 requirements of section 1981 of this title.

12 Sec. 3. 10 V.S.A. § 1978(a) is amended to read:

13 (a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25,
14 necessary for the administration of this chapter. These rules shall include, ~~but~~
15 ~~are not limited to,~~ the following:

16 (1) performance standards for wastewater systems;

17 (2) design flow standards for potable water supplies and wastewater
18 systems;

19 (3) design requirements, including isolation distances, provided that,
20 beginning on July 1, 2015, the rules shall not authorize the extension of an
21 isolation distance onto property other than the property for which a permit is

1 sought unless the permit applicant satisfies the requirements of subsection
2 1973(j) of this section;

3 * * *

4 Sec. 4. 10 V.S.A. § 1981 is added to read:

5 § 1981. ISOLATION DISTANCES; WAIVER

6 (a) If a permit applicant cannot meet the isolation distance required under
7 the rules adopted under this chapter for a potable water supply or wastewater
8 system, the permit applicant may waive application of the isolation distances
9 provided that the following conditions are satisfied:

10 (1) the proposed potable water supply or wastewater system shall serve
11 only a single family residence;

12 (2) the applicable isolation distances shall be maximized to the extent
13 possible, including installation in an alternate location when required by the
14 Secretary;

15 (3) isolation distances to surface waters or groundwater shall not be
16 waived; and

17 (4) at least 10 days prior to filing the waiver, the permit applicant
18 notifies all adjacent property owners of the intent to waive the isolation
19 distances.

1 (b) If the criteria of subsection (a) of this section are satisfied, the Secretary
2 shall provide the permit applicant with a waiver form that informs the permit
3 applicant that:

4 (1) the proposed potable water supply or wastewater system will be
5 located in a manner inconsistent with the rules of the Agency of Natural
6 Resources;

7 (2) upon waiver of the isolation distances, the permit applicant or
8 subsequent property owner shall be prohibited from preventing the installation
9 on adjacent property of a potable water supply or wastewater system within the
10 normally applicable isolation distance; and

11 (3) the permit applicant or subsequent owner shall have no cause of
12 action against the State of Vermont or an adjacent property owner if the
13 applicant or subsequent owner's potable water supply or wastewater system
14 fails as a result of the decreased isolation distance.

15 (c) A permit applicant shall sign a waiver form and submit the waiver form
16 to the Secretary of Natural Resources.

17 (d) Upon issuance of a permit under this chapter, the permittee shall record
18 the waiver form in the land records of the town in which the potable water
19 supply is located.

20 (e) Waiver of isolation distances under this section shall not prohibit the
21 Secretary from denying a permit application on a separate basis.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on July 1, 2015.